

AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 1992
OFFERED BY MR. ISAKSON

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

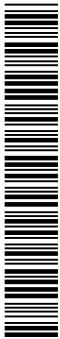
2 This Act may be cited as the “Internet Equity and
3 Education Act of 2001”.

4 SEC. 2. EXCEPTION TO 50 PERCENT CORRESPONDENCE
5 COURSE LIMITATIONS.

6 (a) DEFINITION OF INSTITUTION OF HIGHER EDU-
7 CATION FOR TITLE IV PURPOSES.—Section 102(a) of the
8 Higher Education Act of 1965 (20 U.S.C. 1002(a)) is
9 amended by adding at the end the following new para-
10 graph:

11 “(7) EXCEPTION TO LIMITATION BASED ON
12 COURSE OF STUDY.—Courses offered via tele-
13 communications (as defined in section 484(l)(4))
14 shall not be considered to be correspondence courses
15 for purposes of subparagraph (A) or (B) of para-
16 graph (3) for any institution that—

17 “(A) is participating in either or both of
18 the loan programs under part B or D of title



1 IV on the date of enactment of the Internet Eq-
2 uity and Education Act of 2001;

3 “(B) has a cohort default rate (as deter-
4 mined under section 435(m)) for each of the 3
5 most recent fiscal years for which data are
6 available that is less than 10 percent; and

7 “(C)(i) has notified the Secretary, in a
8 form and manner prescribed by the Secretary
9 (including such information as the Secretary
10 may require to meet the requirements of clause
11 (ii)), of the election by such institution to qual-
12 ify as an institution of higher education by
13 means of the provisions of this paragraph; and

14 “(ii) the Secretary has not, within 90 days
15 after such notice, and the receipt of any infor-
16 mation required under clause (i), notified the
17 institution that the election by such institution
18 would pose a significant risk to Federal funds
19 and the integrity of programs under title IV.”.

20 (b) DEFINITION OF ELIGIBLE STUDENT.—Section
21 484(l)(1) of the Higher Education Act of 1965 (20 U.S.C.
22 1091(l)(1)) is amended by adding at the end the following
23 new subparagraph:

24 “(C) EXCEPTION TO 50 PERCENT LIMITA-
25 TION.—Notwithstanding the 50 percent limita-



tion in subparagraph (A), a student enrolled in a course of instruction described in such subparagraph shall not be considered to be enrolled in correspondence courses if the student is enrolled in an institution that—

“(i) is participating in either or both of the loan programs under part B or D of title IV on the date of enactment of the Internet Equity and Education Act of 2001;

“(ii) has a cohort default rate (as determined under section 435(m)) for each of the 3 most recent fiscal years for which data are available that is less than 10 percent; and

“(iii)(I) has notified the Secretary, in form and manner prescribed by the Secretary (including such information as the Secretary may require to meet the requirements of subclause (II)), of the election by such institution to qualify its students as eligible students by means of the provisions of this subparagraph; and

“(II) the Secretary has not, within 90 days after such notice, and the receipt of



1 any information required under subclause
2 (I), notified the institution that the elec-
3 tion by such institution would pose a sig-
4 nificant risk to Federal funds and the in-
5 tegrity of programs under title IV.”.

6 **SEC. 3. DEFINITION OF ACADEMIC YEAR.**

7 Section 481(a) of the Higher Education Act of 1965
8 (20 U.S.C. 1088(a)) is amended by adding at the end the
9 following new paragraph:

10 “(3) For the purposes of any eligible program, a week
11 of instruction is defined as a week in which at least one
12 day of regularly scheduled instruction or examinations oc-
13 curs, or at least one day of study for final examinations
14 occurs after the last scheduled day of classes. For an edu-
15 cational program using credit hours, but not using a se-
16 mester, trimester, or quarter system, an institution of
17 higher education shall notify the Secretary, in the form
18 and manner prescribed by the Secretary, if the institution
19 plans to offer an eligible program of instruction of less
20 than 12 hours of regularly scheduled instruction, examina-
21 tions, or preparation for examinations for a week of in-
22 structional time.”.



1 **SEC. 4. INCENTIVE COMPENSATION.**

2 (a) AMENDMENT.—Part G of title IV of the Higher
3 Education Act of 1965 is amended by inserting after sec-
4 tion 484B (20 U.S.C. 1091b) the following new section:

5 **“SEC. 484C. INCENTIVE COMPENSATION PROHIBITED.**

6 “(a) PROHIBITION.—No institution of higher edu-
7 cation participating in a program under this title shall
8 make any payment of a commission, bonus, or other incen-
9 tive payment, based directly on success in securing enroll-
10 ments or financial aid, to any person or entity directly en-
11 gaged in student recruiting or admission activities, or
12 making decisions regarding the award of student financial
13 assistance, except that this section shall not apply to the
14 recruitment of foreign students residing in foreign coun-
15 tries who are not eligible to receive Federal student assist-
16 ance.

17 “(b) EXCEPTIONS.—Subsection (a) does not apply to
18 payment of a commission, bonus, or other incentive
19 payment—

20 “(1) pursuant to any contract with any third-
21 party service provider that has no control over eligi-
22 bility for admission or enrollment or the awarding of
23 financial aid at the institution of higher education,
24 provided that no employee of the third-party service
25 provider is paid a commission, bonus, or other incen-



1 tive payment based directly on success in securing
2 enrollments or financial aid; or

3 “(2) to persons or entities for success in secur-
4 ing agreements, contracts, or commitments from em-
5 ployers to provide financial support for enrollment
6 by their employees in an institution of higher edu-
7 cation or for activities that may lead to such agree-
8 ments, contracts, or commitments.

9 “(c) EXCEPTION FOR FIXED COMPENSATION.—For
10 purposes of subsection (a), a person shall not be treated
11 as receiving incentive compensation when such person re-
12 ceives a fixed compensation that is paid regularly for serv-
13 ices and that is adjusted no more frequently than every
14 six months.”.

15 (b) CONFORMING AMENDMENT.—Paragraph (20) of
16 section 487(a) (20 U.S.C. 1094(a)(20)) is repealed.

17 (c) TECHNICAL AMENDMENT.—Section 487(c)(1) of
18 the Higher Education Act of 1965 (20 U.S.C. 1094(c)(1))
19 is amended by striking “paragraph (2)(B)” each place it
20 appears in subparagraphs (F) and (H) and inserting
21 “paragraph (3)(B)”.

22 **SEC. 5. EVALUATION AND REPORT.**

23 (a) INFORMATION FROM INSTITUTIONS.—



1 (1) INSTITUTIONS COVERED BY REQUIRE-
2 MENT.—The requirements of paragraph (2) apply to
3 any institution of higher education that—

4 (A) has notified the Secretary of Edu-
5 cation of an election to qualify for the exception
6 to limitation based on course of study in section
7 102(a)(7) of the Higher Education Act of 1965
8 (20 U.S.C. 1002(a)(7)) or the exception to the
9 50 percent limitation in section 484(l)(1)(C) of
10 such Act (20 U.S.C. 1091(l)(1)(C));

11 (B) has notified the Secretary under sec-
12 tion 481(a)(3) of such Act (20 U.S.C.
13 1088(a)(3)); or

14 (C) contracts with outside parties for—

15 (i) the delivery of distance education
16 programs;

17 (ii) the delivery of programs offered in
18 nontraditional formats; or

19 (iii) the purpose of securing the en-
20 rollment of students.

21 (2) REQUIREMENTS.—Any institution of higher
22 education to which this paragraph applies shall com-
23 ply, on a timely basis, with the Secretary of Edu-
24 cation's reasonable requests for information on
25 changes in—



1 (A) the amount or method of instruction
2 offered;

3 (B) the types of programs or courses of-
4 fered;

5 (C) enrollment by type of program or
6 course;

7 (D) the amount and types of grant, loan,
8 or work assistance provided under title IV of
9 the Higher Education Act of 1965 that is re-
10 ceived by students enrolled in programs con-
11 ducted in nontraditional formats; and

12 (E) outcomes for students enrolled in such
13 courses or programs.

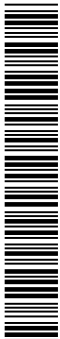
14 (b) REPORT BY SECRETARY REQUIRED.—The Sec-
15 retary of Education shall conduct by grant or contract a
16 study of, and by March 31, 2003, submit to the Congress,
17 a report on—

18 (1) the effect that the amendments made by
19 this Act have had on—

20 (A) the ability of institutions of higher
21 education to provide distance learning opportu-
22 nities to students; and

23 (B) program integrity; and

24 (2) with respect to distance education or cor-
25 respondence education courses at institutions of



1 higher education to which the information require-
2 ments of subsection (a)(2) apply, changes from year-
3 to-year in—

4 (A) the amount or method of instruction
5 offered and the types of programs or courses of-
6 fered;

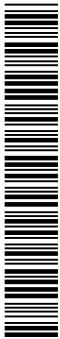
7 (B) the number and type of students en-
8 rolled in distance education or correspondence
9 education courses;

10 (C) the amount of student aid provided to
11 such students, in total and as a percentage of
12 the institution's revenue; and

13 (D) outcomes for students enrolled in dis-
14 tance education or correspondence education
15 courses, including graduation rates, job place-
16 ment rates, and loan delinquencies and defaults;

17 (3) any reported and verified claim of induce-
18 ment to participate in the student financial aid pro-
19 grams and any violation of the Higher Education
20 Act of 1965, including any actions taken by the De-
21 partment of Education against the violator; and

22 (4) any further improvements that should be
23 made to the provisions amended by this Act (and re-
24 lated provisions), in order to accommodate nontradi-
25 tional educational opportunities in the Federal stu-



1 dent assistance programs while ensuring the integ-
2 rity of those programs.

3 **SEC. 6. IMPLEMENTATION.**

4 (a) NO DELAY IN EFFECTIVE DATE.—Section 482(c)
5 of the Higher Education Act of 1965 (20 U.S.C. 1089(c))
6 shall not apply to the amendments made by this Act.

7 (b) IMPLEMENTING REGULATIONS.—Section 492 of
8 the Higher Education Act of 1965 (20 U.S.C. 1098a)
9 shall not apply to the amendments made by sections 2 and
10 3 of this Act.

